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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT COURT OF NEVADA**

DENNIS MONTGOMERY, an individual; and
MONTGOMERY FAMILY TRUST, a California
Trust,

Case No. 3:06-CV-00056-PMP-VPC
Base File

Plaintiffs,

3:06-CV-00145-PMP-VPC

vs.

ETREPPID TECHNOLOGIES, L.L.C., a Nevada
Limited Liability Company; WARREN TREPP,
an individual; DEPARTMENT OF DEFENSE of
the UNITED STATES OF AMERICA; and
DOES 1 through 10,

Defendants.

AND RELATED CASE(S)

**MOTION TO COMPEL ATTENDANCE OF MS. EDRA BLIXSETH AND MOTION FOR
ORDER SHORTENING TIME**

eTreppid Technologies, LLC and Warren Trepp ("eTreppid"), by and through their
undersigned counsel of record, Hale Lane Peek Dennison and Howard, hereby submit their Motion to

1 Compel the appearance of Ms. Edra Blixseth ("Blixseth") at the continuance of the Order to Show
2 Cause Hearing on June 24, 2008 at 9:00 a.m. eTreppid further moves this Court to consider this
3 Motion on shortened time, pursuant the Court's acknowledgement on June 10, 2008 that it will
4 consider this Motion on shortened time. This Motion is supported by the following Points and
5 Authorities.

6 **POINTS AND AUTHORITIES**

7 **I. ARGUMENT.**

8 This Court is aware of the factual circumstances surrounding this case, and in particular, the
9 Order to Show Cause Hearing that will be continued on June 24, 2008. Montgomery has refused, and
10 continues to refuse, to provide documents that he was ordered to provide on February 21, 2008.
11 Montgomery's testimony at the hearing held on June 10, 2008 made clear that Edra Blixseth, who was
12 a principal in Opspring (Montgomery's former employer) and is apparently also a principal of
13 Blixware (Montgomery's current employer) is likely to have knowledge of the location of certain of
14 the documents that Montgomery is obliged to produce. For instance Montgomery was ordered to
15 provide all correspondence between himself and Ms. Blixseth, Michael Sandoval, Opspring, Atigeo,
16 and AziMyth. Ms. Blixseth will be able to provide testimony relating to the existence and location of
17 such correspondence. As such, Ms. Blixseth will be able to provide the Court with the information
18 necessary for an informed ruling on eTreppid's request for sanctions, and her presence at the hearing
19 should be compelled.¹

20 In this Court's February 21, 2008 Order, the Court specifically ordered Montgomery to provide
21 documents in response to eTreppid's discovery requests. It is clear that Montgomery corresponded
22 with Blixseth via email. In one email, Blixseth, apparently anticipating the beginning of a media
23 campaign against Mr. Trepp, advises Montgomery that "the ball will start rolling to expose some
24 things about WT that need to come out." See eTreppid's Reply in Support of Motion For Order to
25 Show Cause, attached thereto as Exhibit "1". It is simply inconceivable that this is the only email
26 exchanged between Blixseth and Montgomery. Blixseth's testimony will have a strong bearing on the

27
28 ¹ Because Ms. Blixseth is not a resident of the State of Nevada, she may not be subpoenaed to testify at the hearing. However, because she is a party to this case, this Court has the jurisdiction to order her to attend the June 24, 2008 hearing.

1 quantity of emails and documents that are in Montgomery's control, furthering the notion that
2 Montgomery's failure to produce these documents is clearly sanctionable.

3 Blixseth will be able to testify concerning the emails between Montgomery and Sandoval,
4 Blixseth, Opspring, or Atigeo, which concern the Contract between Montgomery and Opspring.
5 Clearly, parties would exchange communications to execute a Contract of such magnitude, and
6 Blixseth's testimony regarding the existence, location, volume, and nature of such evidence is highly
7 relevant.

8 Based on documents that Montgomery has produced in this case, it appears that
9 communications between Montgomery and Blixseth are likely to provide evidence relating to
10 Montgomery's apparent violation of the preliminary injunction by licensing eTreppid technology to
11 Opspring within weeks of the date upon which the preliminary injunction was entered. However,
12 Montgomery has refused to provide correspondences between himself and Blixseth, Sandoval, or other
13 agents of Opspring, and Blixseth's testimony may shed light on this issue.

14 This Court has already ordered Montgomery to pay sanctions in the form of attorney's fees on
15 two occasions. It is evident and undisputed that Blixseth has knowledge of, and participated in, the
16 communications that this Court previous compelled Montgomery to produce. Ms. Blixseth's
17 testimony is likely to be highly relevant to the question of whether and to what degree Montgomery
18 has access to documents that he has refused to produce. Accordingly, eTreppid respectfully submits
19 that this Court should compel Edra Blixseth to appear at the June 24, 2008 hearing.

20 Lastly, eTreppid requests that this Court here the present Motion on shortened time, as
21 discussed at the conclusion of the first day of the present show cause hearing on June 10, 2008. *See*
22 Minutes of Proceedings, Doc. # 670, p. 5. Because eTreppid seeks to compel Ms. Blixseth to testify at
23 the June 24, 2008 hearing, eTreppid submits that this Court should order that any opposition to the
24 present motion be filed on or before June 17, 2008, with eTreppid's reply to be filed on or before June
25 20, 2008.

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1 **II. CONCLUSION.**

2 eTreppid respectfully submits that this Court order that Edra Blixseth appear at the hearing on
3 June 24, 2008, and that this Motion be considered on shortened time.

4 Dated: June 13, 2008.

5
6 /s/

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PROOF OF SERVICE

I, Cynthia L. Kelb, declare:

I am employed in the **City of Reno, County of Washoe, State of Nevada**, by the law offices of Hale Lane Peek Dennison and Howard. My business address is: **5441 Kietzke Lane, Second Floor, Reno, Nevada 89511**. I am over the age of 18 years and not a party to this action. I am readily familiar with Hale Lane Peek Dennison and Howard's practice for collection of mail, delivery of its hand-deliveries and their process of faxes.

On June 13, 2008, I caused the foregoing **MOTION TO COMPEL ATTENDANCE OF MS. EDRA BLIXSETH AND MOTION FOR ORDER SHORTENING TIME** to be:

X filed electronically with the U.S. District Court and therefore the court's computer system has electronically delivered a copy of the foregoing document to the following person(s) at the following e-mail addresses:

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1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct, and that this declaration was executed on June 13, 2008.

3
4 /s/
Cynthia L. Kelb

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